

**REMARKS**

Subsequent to entry of the foregoing amendments, claims 1-12 are currently pending in this application. New claims 8-12 are added via this Amendment.

**I. Claims.**

The Examiner rejects claims 1, 2, 5 and 6 as allegedly being unpatentable over *Nakamura*, U.S. Patent Publication No. 2001/0008524, (hereafter *Nakamura* '524) in view of *Miura*, EP 0982871 A2 (hereafter *Miura* '871) under 35 U.S.C. §103(a).

Claim 1. The Examiner acknowledges that *Nakamura* '524 fails to disclose calculation of propagation delay from received preamble signals and storing propagation delay times for rejected signals (FOA page 3). The Examiner asserts that *Miura* '871 teaches the use of correlating the propagation delay to a value from a received signal and comparing it to a certain stored threshold value (FOA page 3, Examiner citing *Miura* '571 at paragraph [0017]). The Examiner goes onto assert that it would be obvious for one of ordinary skill in the art to modify the method of *Nakamura* '524 to incorporate the teachings of *Miura* '571, thereby obtaining the element of storing the propagation delay times of rejected signals to memory, the motivation being to provide a method of priority for subsequent communications (FOA page 3). Applicant respectfully traverses this rejection on two grounds.

First, the combination of applied references fails to teach or suggest each and every element of the claim. The Examiner acknowledges that *Nakamura* '524 fails to teach or suggest storing propagation of delay times for preamble signals, and therein relies on *Miura* '871 to teach this claim element (FOA page 3).

*Miura* '871 teaches a CDMA reception method, wherein detected signals are synthesized depending on reception quality, SIR (signal/interference ratio). *Miura* '871 neither teaches nor suggests storing correlation values (or reception delay amounts) for rejected signals to be utilized in prioritizing, or assessing access priority (*Miura* '871 abstract; paragraphs [0021] and [0061]; claim 1).

In contrast, claim 1 requires, "...storing propagation delay times for terminals, which received said signals for rejecting said random access, and assessing access priority based, in part, on said stored propagation delay times." (*Application* claim 1; page 6, lines 5-12; page 8, line 24 to page 9, line 4; page 12, lines 20-21). *Miura* '871 neither teaches nor suggests the storage of propagation delay times for terminals, which received signals for rejecting random access, and assessing access priority based in part on said rejected propagation delay times. The secondary reference fails to teach or suggest the element lacking in the primary reference. At least for failing to teach or suggest storing propagation delay times for terminals, which received said signals for rejecting said random access, and assessing access priority based, in part, on said stored propagation delay times, the rejection of claim 1 over *Nakamura* '524 in view of *Miura* '871 under 35 U.S.C. §103(a) should be withdrawn.

Second, the prior art must suggest the desirability of the claimed invention (MPEP §2143.01). Motivation to combine, required for a *prima facie* case of obviousness, can be established from three sources. The three sources are teachings of the prior art, knowledge of one ordinarily skilled in the art, and the nature of the problem to be solved. *Nakamura '524* teaches preamble detection. *Nakamura '524* does not teach or suggest storing propagation delay times for terminals, which received said signals for rejecting said random access (*Nakamura '524* paragraphs [0002]-[0013]). Likewise, secondary reference *Miura '871* teaches a method of *RAKE combining*, and fails to teach or suggest storing propagation delay times for terminals, which received said signals for rejecting said random access, and assessing access priority based, in part, on said stored propagation delay times (*Miura '871* abstract; FIG 1A; paragraphs [0012]-[0020] and [0051]-[0052]; FIG 11).

Therefore, neither alone or in combination, do *Nakamura '524* and *Miura '871* teach or suggest a method of prioritizing signal transmission. There is no motivation or suggestion in references *Nakamura '524* and *Miura '871* to combine said references to obtain Applicant's invention. One of ordinary skill in the art is not motivated to combine a teaching of improved preamble detection with a teaching of improved signal combining to arrive at Applicant's claim of tracking rejected signals/terminals. There is no motivation to combine the teachings of *Nakamura '524*, preamble detection, with the teachings of *Miura '871*, improved signal quality, to obtain a system that tracks rejected signals. In the case at bar, all three sources fail to provide a motivation to combine. At least because there is no motivation to combine *Nakamura '524* and

*Miura '871* to obtain storage of propagation delay times for terminals, which received said signals for rejecting said random access, the rejection of claim 1 as being unpatentable over *Nakamura '524* in view of *Miura '871* under 35 U.S.C. §103(a) should be withdrawn (MPEP §2143.01; *In re Rouffet*, 149 F.3d, 1350, 1357).

Claim 2 is asserted as being allowable at least by virtue of its dependence upon an allowable claim.

Claim 5. As in the rejection of claim 1, the Examiner acknowledges that *Nakamura '524* fails to disclose storing of propagation delay times for rejected signals, and therein relies on *Miura '871* to teach this element (FOA page 4). The Examiner asserts that *Miura '571* teaches storing propagation delay times, correlation values for all detection signals (FOA page 3).

In contrast, claim 5 requires storing a delay time of a preamble *only when* a signal for rejecting random access is transmitted. Said amendment is supported throughout Applicant's specification, for example, at page 6, lines 5-12; page 8, line 24 to page 9, line 4; and page 12, lines 16-19. *Miura '571* fails to teach or suggest storing a delay time of a preamble *only when* a signal for rejecting random access is transmitted. At least for failing to teach or suggest storing a delay time of a preamble *only when* a signal for rejecting random access is transmitted, the rejection of claim 5 over *Nakamura '524* in view of *Miura '871* under 35 U.S.C. §103(a) should be withdrawn.

Claim 6 is asserted as being allowable at least by virtue of its dependence upon an allowable claim.

## **II. Allowable Subject Matter.**

Applicant thanks the Examiner for the indication that claims 3, 4 and 7 would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

New claims 8 and 9 are believed to be in condition for allowance as providing the allowable subject matter of claims 3 and 4, respectively, in independent form. New claims 10 and 12 are believed to be allowable at least for depending from an allowable claim. New claim 11 is believed to be in condition for allowance as providing the allowable subject matter of claim 7 in independent form.

In view of the preceding amendments and remarks, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue that the Examiner feels may be best resolved through a personal or telephonic interview, the Examiner is kindly requested to contact the undersigned at the local telephone number listed below.

AMENDMENT UNDER 37 C.F.R. §1.116  
U.S. SERIAL NO. 09/832,094

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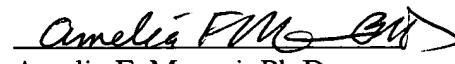
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